

INTEVIEW SUMMARY

On January 26, 2009, a telephonic interview was held between Applicant's representative Attorney Michael Ferrazano and Examiner Steven Theriault. In the Examiner's Answer mailed December 12, 2008, Examiner Theriault responded to the Appeal Brief filed August 29, 2008 that no documentary evidence supporting the Applicant's claim of due diligence from just before the critical date of May 27, 2003 to the filing date of July 28, 2003 had been presented. Accordingly, Attorney Ferrazano contacted Examiner Theriault and stated that such documentary evidence was available and would be made of record in a follow on response filed with an Request for Continuing Examination. Examiner Theriault agreed to consider the new evidence when filed and also noted that Applicant should review an as yet uncited reference (U.S. Patent 6,983,251) when considering any possible claims amendments.

Attorney Ferrazano would like to thank Examiner Theriault for his thoughtful remarks and help in this matter.

REMARKS

In response to the Examiner's Answer mailed December 12, 2008 where at page 12, the Examiner states the following:

"The main point made by the office in the final rejection mailed 12/28/2007, it that there is no evidence to establish diligence from May 27 until filing... there is not a single piece of documentary EVIDENCE to support diligence from the date just prior to the reference used in the rejection and the rest of critical period...The Exhibit does not contain logs, or files or notes or any other piece of information to show diligence on behalf of the inventor or inventor's representative throughout the period of May 26 until filing".

Accordingly, the Applicant would like to present for the Examiner's consideration documentary evidence that the Applicant believes shows diligence on behalf of the inventor or inventor's representative throughout the period of at least May 26 until the filing date of July 18, 2003.

Figure 1 below shows time line 100 providing a graphical representation of the events during the period starting May 20, 2003 extending to July 18, 2003. Table 1 provides a detailed

description of specific events noted in timeline 100. Appendix A provides Exhibits A – H providing documentation supporting events described in timeline 100 and Table 1.

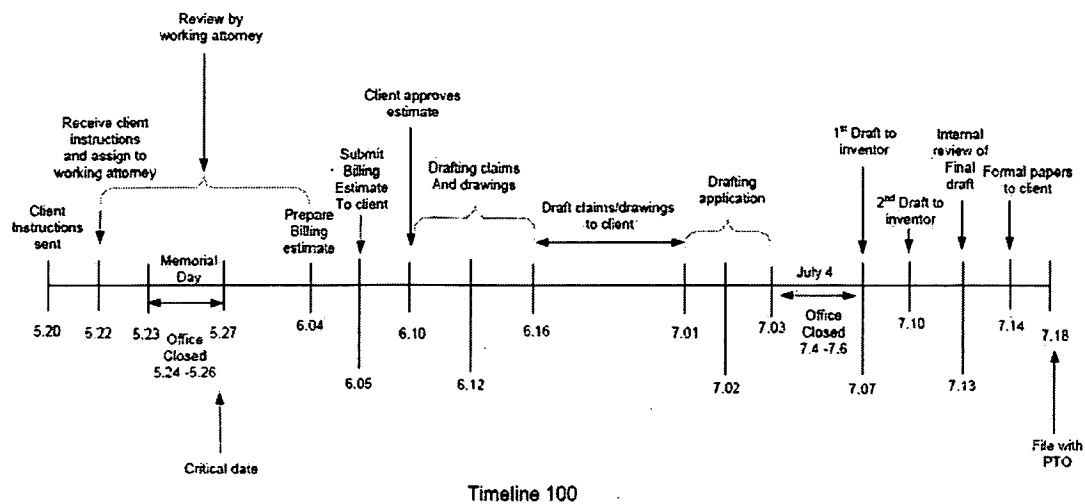


Figure 1

Date	Action	Documentation
5.20.2003	Client sends instruction letter to primary attorney (CDT)	Exhibit A: Client letter
5.22.2003	Attorney CDT receives client instructions and assigns to working attorney (MEM)	Exhibit B: CDT time log entry 1
5.22.2003 to 6.04.2003	Attorney MEM reviews client instructions, disclosure material and prepares attorney billing estimate. (Office closed for Memorial Day from 5.24 to 5.27)	Exhibit C: Attorney Billing Estimate
6.05.2003	Billing Estimate sent to Client by Attorney MEM	Exhibit D
6.10.2003	Receive client approval	Exhibit E
6.10.2003 to 6.16.2003	Attorney MEM prepares draft claims and draft drawings/reviews with attorney CDT	Exhibit B: MEM time log entries 2 -5
6.16.2003	Draft drawings and claims sent to client for review	Exhibit F
7.01.2003 To 7.03.2003	Receive inventor comments and drafting application	Exhibit B: MEM time log entries 6 -8
7.4.2003 to 7.6.2003	Office closed for July 4 th	
7.7.2003	Draft application sent to inventor for review	EXHIBIT G
7.10.2003	Conference with inventor about draft application, send second draft to inventor	Exhibit B: MEM time log entry 9 EXHIBIT G
7.13.2003	Internal review of application by attorney CDT	Exhibit B: CDT time log entry 10
7.14.2003	Prepare formal papers for review and signature of inventor	Exhibit H
7.18.2003	File Application	Exhibit B: MEM time log entry 11

Table 1
Description of time line
U.S. Patent Application Ser. No. 10/623,339

**DETAILED DESCRIPTION
OF
EVENTS OF TIMELINE 100**

On May 20, 2003, client instructions are sent to primary attorney C. Douglass Thomas (CDT) at the law firm of Beyer Weaver Thomas LLP (BWT). On May 22, CDT received the client instructions, reviewed the client instructions and assigned preparation of the patent application to working attorney Morgan Malino (MEM). The offices of BWT closed early on May 23, 2003 for Memorial Day Weekend and remained closed until Tuesday, May 27, 2003. From May 27, 2003 to June 4, 2003 (total of six business days) MEM reviewed disclosure material, client instructions, and prepared billing estimate. On June 4, a billing estimate was finalized by MEM and on June 5, 2003, the billing estimate was forwarded to the client for approval. On June 10, 2003, the client approved the billing estimate provided by MEM. From June 10, 2003 to June 16, 2003, MEM prepared draft drawings and claims which were reviewed by CDT prior to being forwarded to client on June 16, 2003. After receiving comments from client, MEM worked on first draft of application from July 1, 2003 to July 3, 2003 (BWT offices closed on Friday July 4, 2003 and remained closed until Tuesday July 7, 2003). On July 7, 2003, MEM forwarded a first draft to inventor for review. After receiving comments from inventor, MEM sent a second draft to inventor for review on July 10. On July 13, 2003, an internal review of final draft application was provided by CDT. On July 14, 2003 formal papers (including oath, declaration and assignment) are prepared by MEM and forwarded along with a final version of application to inventor for review and signature. On July 18, 2003, the patent application was filed in the PTO.

Applicant believes that the above facts and documentary evidence is sufficient to show the requisite reasonable due diligence requested by the Examiner for the period May 26, 2003 to July 18, 2003. Therefore, the Applicant believes that the Born reference is not prior art and should be removed from any consideration of the patentability of the present application.

A number of claims have been amended in light of the Examiner's suggestion to review U.S. Patent 6,983,251.

CONCLUSION

In view of the foregoing, Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
BEYER LAW GROUP LLP

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